



INTERCOUNTRY ADOPTION

Frequently Asked Questions: Conducting Home Studies for American Citizens Residing Abroad in Incoming/Immigrating Convention Cases

Conducting Home Studies for American Citizens Residing Abroad in Incoming/Immigrating Convention Cases

Q: Does a home study preparer conducting home studies of American citizens residing abroad in Convention cases have to be authorized to conduct home studies in the United States and/or in the country where the family resides?

This guidance applies to home studies prepared abroad in “incoming / immigrating” adoption cases covered by the Hague Adoption Convention (i.e., cases in which a U.S. citizen habitually resident in the United States seeks to adopt a child habitually resident in a Convention country). Provisions of both the U.S. Department of State regulation on accreditation in Convention cases and the USCIS regulation on Convention cases apply to adoption service providers conducting home studies abroad in incoming Convention cases.

- Under the USCIS regulation, 8 CFR 204.313(b)(2), U.S. citizens serving in the U.S. Armed Forces or with the U.S. Government abroad are considered to be habitually resident in the United States. Under 8 CFR 204.303, there may be other situations in which a U.S. citizen living temporarily abroad can establish that he or she is habitually resident in the United States.
- Thus, if a citizen who is living abroad establishes that he or she is habitually resident in the United States, and seeks to adopt a child who is habitually resident in a Convention country, that adoption is covered by the Convention and is considered an “incoming case”.
- Under the U.S. Department of State’s accreditation regulations, an adoption service provider conducting home studies abroad in incoming Convention cases must be either the primary provider or a supervised provider, in accordance with 22 CFR 96.2 and 96.14(c). Unlike adoption service providers conducting home studies in the United States for

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incoming Convention adoption cases, adoption service providers conducting home studies abroad are not authorized to conduct them as exempted providers. (See 22 CFR 96.2.)

- In addition, the accreditation standards provide for adoption service providers conducting home studies abroad to be authorized or licensed to complete a home study under the laws of the States in which they practice, if any, and for supervised providers to be accredited in the Convention country where they are conducting the home study, if such accreditation is required by the laws of the Convention country. See 96.47(c)(2), 96.37(f), and 96.46(a)(5).
- Under the USCIS regulation, in addition to being authorized under the accreditation regulations to conduct home studies, the adoption service provider must also be authorized to conduct home studies under the law of the jurisdiction in which the home study is conducted. 8 CFR 204.311(b). (Separately, the Convention requires authorization from the Convention country to act in that country. See Convention, Article 12.)
- The USCIS regulation on incoming Convention cases also requires the home study preparer to certify that he or she is authorized under 22 CFR part 96 to complete home studies for Convention adoption cases, and to provide specific details as to the license or authorization. See 8 CFR 204.311(s).
- Adoption service providers, in summary, may conduct home studies abroad in Convention adoption cases for American citizens residing abroad if they are authorized to conduct home studies 1) under the accreditation regulations, and 2) under the law of the jurisdiction in which the home study is conducted.
- 22 CFR 47(c) and 8 CFR 204.311(t) further provide that home studies prepared by supervised providers must be reviewed and approved by an accredited agency, or temporarily accredited agency, before submittal to USCIS for approval.



Examples of social work professionals who may conduct home studies abroad in incoming Convention cases when prospective adoptive parents reside abroad in Country X:

Example 1: A private social worker of any nationality practicing in Convention Country X who

- is a supervised provider (foreign supervised provider) who has a written agreement with the primary provider to provide home study services (22 CFR 96.46(b));
- is authorized to conduct home studies in Country X; and
- is accredited in Country X, if Country X requires such accreditation.
- Notes: The home study must be approved by a U.S. accredited or temporarily accredited ASP, usually the primary provider. This example assumes that the social worker does not practice in any U.S. State and is not employed by the primary provider or an accredited entity. If the law of Country X requires it, the home study may also have to be "reviewed by the competent authority" in Country X

Example 2: An employee of a U.S. accredited or temporarily accredited agency that

- is authorized to perform home studies in accordance with the accreditation rule, 22 CFR 96.37(f);
- is authorized to conduct home studies in Country X. If the law of Country X requires it, the home study may also have to be "reviewed by the competent authority" in Country X; and
- is accredited in Country X, if Country X requires such accreditation.

Example 3: A government agency of Country X that is authorized to perform home studies in Country X for U.S. citizens.

- Notes: Because this agency is a public foreign authority under 22 CFR 96.14(d)(2), it is not subject to supervision. The home study must be approved by a U.S. accredited or temporarily accredited ASP, usually the primary provider (22 CFR 96.46(c)).



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Example 4: A private social worker of any nationality practicing in the United States and in Convention Country X who

- is a supervised provider and has a written agreement with the primary provider to provide home study services;
- is authorized or licensed to complete a home study under the laws of the States in which the social worker practices;
- is authorized to conduct home studies in Country X;
- is accredited in Country X, if Country X requires such accreditation.
- Notes: This example assumes that the social worker is not employed by the primary provider or an accredited entity. The home study must be approved by a U.S. accredited or temporarily accredited ASP, usually the primary provider.

This guidance was cleared with USCIS.